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condition that the item be used for the benefit of, or in connection with, the operation maintenance, or administration of the two national cemeteries under the jurisdiction of the Department of the Army. The Adjutant General will take appropriate action on conditional gifts as prescribed in AR 1-100.

(d) *Unconditional gifts.* All proffers or donations of gifts which are unconditional will be accompanied by a report stating all material facts in connection with the source, nature, and purpose of the gift.

#### § 553.7 Design and layout of Army national cemeteries.

(a) General cemetery layout plans, landscape planting plans and gravesite layout plans for Army national cemeteries will be maintained by The Adjutant General.

(b) New burial sections will be opened and prepared for burials only with the approval of The Adjutant General and after types and sizes of monuments on permanent sites have been established.

#### § 553.8 Arlington Memorial Amphitheater.

(a) The Act of 2 September 1960 (74 Stat; 24 U.S.C. 295a) provides that the Secretary of Defense or his designee may send to Congress or his designee may send to Congress in January of each year recommendations on the memorials to be erected and the remains of deceased members of the Armed Forces to be entombed in the Arlington Memorial Amphitheater in Arlington National Cemetery. The Act further provides that—

(1) No memorial may be erected and no remains may be entombed in the Arlington Memorial Amphitheater unless specifically authorized by Congress;

(2) The character, design, or location of any memorial authorized by Congress is subject to the approval of the Secretary of Defense or of his designee.

(b) Under the provisions of the Act of 2 September 1960, the Secretary of the Army has been designated to act in behalf of the Secretary of Defense.

(c) The Department of the Army will seek the advice of the Commission of Fine Arts concerning any requests relative to inscriptions or memorials

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within the Arlington Memorial Amphitheater.

#### § 553.9 Power of arrest.

The superintendents of Army national cemeteries are authorized to arrest any person who willfully destroys, cuts, breaks, injures, or removes any tree, shrub, or plant within the limits of the cemetery and to bring that person before any United States magistrate or judge of any district court of the United States within any State or district where the cemeteries are situated, to hold that person to answer for the misdemeanor, and then and there to make a complaint in due form.

#### § 553.10 Solicitations.

Solicitations to the public of any type of business including the sale of souvenirs and refreshments within the cemetery are prohibited. Violators who do not leave when so ordered or who unlawfully reenter the cemetery after being evicted will be subject to prosecution.

#### § 553.11 Procurement.

Cemetery supplies and services will be procured in accordance with the provisions of the Armed Services Procurement Regulation (ASPR) and the Army Procurement Procedure (APP).

#### § 553.12 Encroachments and revocable licenses.

(a) *Encroachments.* No railroads will be permitted upon the right-of-way acquired by the United States leading to Arlington or Soldiers' Home National Cemetery or to encroach upon any roads or walks thereon and maintained by the United States.

(b) *Revocable licenses.* The construction or erection of poles and lines (including underground lines) for transmitting and distributing electric power or for telephone and telegraph purposes, as well as water and sewer pipes, will not be permitted without the authority of the Department of the Army. Requests for revocable licenses to construct water, gas, or sewer lines or other appurtenances on or across the cemetery or an approach road in which the Government has a right-of-way or fee simple title or other interest will be submitted for final action to

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the cemetery superintendent with a complete description of the privilege desired and a map showing the location of the project on the roadway in question. The superintendent will forward the application and inclosures with his comments and recommendation to Headquarters, Department of the Army.

### § 553.13 Standards of construction, maintenance, and operations.

The following standards of the Department of the Army will be observed in the development, operation, maintenance, administration, and support of Army national cemeteries and will be considered in relation to budgetary reviews within the Department of the Army:

(a) As permanent national shrines provided by a grateful nation to the honored dead of the Armed Forces of the United States, the standards for construction, maintenance, and operation of Army national cemeteries will be commensurate with the high purpose to which they are dedicated.

(b) Structures and facilities provided for Army cemeteries will be permanent in nature and of a scope, dignity, and aesthetic design suitable to the purpose for which they are intended.

(c) Cemeteries will be beautified by landscaping and by means of special features based on the historical aspects, location, or other factors of major significance.

(d) Accommodations and services provided to the next of kin of the honored dead and to the general public will be of high order.

### § 553.14 Authority for interments.

The Act of 14 May 1948 (62 Stat. 234), as amended by the Act of 14 September 1959 (73 Stat. 547; 24 U.S.C. 281), and other laws specifically cited in this part authorize burial in Arlington and Soldiers' Home National Cemeteries under such regulations as the Secretary of the Army may, with the approval of the Secretary of Defense, prescribe.

### § 553.15 Persons eligible for burial in Arlington National Cemetery.

(a) Any active duty member of the Armed Forces (except those members

serving on active duty for training only).

(b) Any retired member of the Armed Forces. A retired member of the Armed Forces, in the context of this paragraph, is a retired member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or a Reserve component who has served on active duty (other than for training), is carried on an official retired list, and is entitled to receive retired pay stemming from service in the Armed Forces. If, at the time of death, a retired member of the Armed Forces is not entitled to receive retired pay stemming from his service in the Armed Forces until some future date, the retired member will not be eligible for burial.

(c) Any former member of the Armed Forces separated for physical disability prior to 1 October 1949 who has served on active duty (other than for training) and who would have been eligible for retirement under the provisions of 10 U.S.C. 1201 had that statute been in effect on the date of his separation.

(d) Any former member of the Armed Forces whose last active duty (other than for training) military service terminated honorably and who has been awarded one of the following decorations:

(1) Medal of Honor.

(2) Distinguished Service Cross (Air Force Cross or Navy Cross).

(3) Distinguished Service Medal.

(4) Silver Star.

(5) Purple Heart.

(e) Persons who have held any of the following positions, provided their last period of active duty (other than for training) as a member of the Armed Forces terminated honorably:

(1) An elective office of the United States Government.

(2) Office of the Chief Justice of the United States or of an Associate Justice of the Supreme Court of the United States.

(3) An office listed in 5 U.S.C. 5312 or 5 U.S.C. 5313.

(4) The Chief of a mission who was at any time during his tenure classified in class I under the provisions of 411 of the Act of 13 August 1946, 60 Stat. 1002, as amended (22 U.S.C. 866, 1964 ed.).